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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/289,550 | 04/09/1999 | RICHARD W. FRIESEN | 3854 | 8747 |

30256 7590 05/07/2003

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| EXAMINER |
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KYLE, CHARLES R

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| ART UNIT | PAPER NUMBER |
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3624

DATE MAILED: 05/07/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/289,550

Applicant(s)

FRIESEN ET AL.

Examiner

Charles R Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 28 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 28 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-18, 28 and 32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. They recite no features which place them in the technological arts.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-9, 12 and 16-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by *Silverman et al.*

Concerning Claim 1, *Silverman* discloses the invention as claimed including in a method for displaying transactional information regarding the buying and selling of items (Abstract; Fig 18, “4”) in a system where orders comprise a bid type or an offer type (Figs. 4 and 18, “Bid Side” and Offer Side”), and an order is generated for a quantity of items at a specific value (Fig. 4, lower left hand box denoting “Value” and “Primary Quantity”), the method comprising:

Displaying a plurality of bid icons each corresponding to a bid for a quantity of items (Fig 4, eles. 73, 75, 77), each bid at a location along a first axis of values corresponding to the value of the bid (Fig 4., “Absolute Value” axis), including bids having different values (Fig. 4, elements 73 and 82); and

Displaying a plurality of offer icons each corresponding to an offer for a quantity of items (Fig 4, eles. 94, 96, 98), each bid at a location along a first axis of values corresponding to the value of the bid (Fig 4., “Absolute Value” axis), including bids having different values (Fig. 4, elements 88 and 100).

As to Claim 3, *Silverman* discloses positioning an icon to imply its value at Fig. 4, positioning of bid and offer icons on a vertical axis with indicated prices.

With respect to Claim 4, *Silverman* discloses order icons containing quantity and value information at Fig. 4, lower left hand box denoting “Value” and “Primary Quantity”

As to Claim 5, *Silverman* discloses bid slots at Fig 4, elements 73, 75, 77.

Concerning Claim 6, *Silverman* discloses rearrangement of bid icons at Fig. 13.

As to Claims 7 and 9, *Silverman* discloses sequencing by time (“Time Order of Offers/Bids, Fig 4.) and value (Absolute Value Axis, Fig. 4).

As to Claim 8, *Silverman* discloses horizontal placement of bid icons. It is inherent that the same information is provided as would be provided by vertical placement.

Regarding Claims 12 and 16, see the discussion of Claim 1 above. These Claims also recite the processes of receiving orders and generating icons for new bids or offers, which is taught by *Silverman* at Figs. 4, 14 and 16.

Regarding Claim 17, see above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Silverman*.

With respect to Claim 10, *Silverman* discloses the invention substantially as claimed. See the discussions set forth above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have distinguished a bidder's icon with a visual characteristic so that a bidder could understand where he/she stood in the bidding with respect to other bidders' and could understand market trends.

With respect to Claim 11, *Silverman* discloses high and low price information at Fig. 4. The use of an angled edge would provide such information and is read as functionally equivalent.

As to Claim 13, it recites language describing the matching of a bid with an offer and the completion of a trade. It would have been obvious to one of ordinary skill in the art at the time of the invention to have removed an offer icon when a trade for that offer was completed because this would have avoided confusion and contention among multiple traders each thinking that he or she had completed the trade for an unremoved yet already sold offer icon. Further, if a trade

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were completed for a particular offer the remaining available quantity of items from that offer would be zero, thus implying an icon size also of zero.

Concerning Claims 14 and 15, they describe the matching of bids and offers which are unequal and the display of a “remainder” icon representing items not traded in a partial trade of unequal bids and offers. It would have been obvious to one of ordinary skill in the art at the time of the invention to make provision for such partial trades by representing the trade “remainder” in a proportionally sized icon for a bid or offer because this would have expedited the trade of the total order by trading it in parts.

Claims 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Silverman* in view of *Schott*.

As to Claim 2, *Silverman* discloses the invention substantially as claimed. See the discussion of Claim 1 above. *Silverman* does not specifically disclose icons adjustable for size based on order size, although the order size data is inherent in his displayed order icons at Fig. 4. *Schott* discloses manipulation of similar data through user manipulation of size to reflect quantity. See Abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the user manipulation of underlying data disclosed by *Schott* in the invention of *Silverman* because this would have allowed a user to understand the relative size of orders through greater or lesser visual impact based on user controlled size.

Claims 28 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Silverman* in view of *Sacerdoti et al.*

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As to Claim 28, *Silverman* teaches the invention substantially as claimed including an electronic trading system having orders and receipt of information for those orders, including a value axis, which information is displayed. See the discussion of Claim 1 for detailed reference. *Silverman* do not specifically disclose a quantity axis and display of icons with respect to it. *Sacerdoti* discloses this feature at Figs. 4, 5 and 8. It would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized the display of icons with respect to quantity axis because this would have provided additional information. A motivation to combine the teachings of the references is given by *Sacerdoti et al* at Col. 1, lines 20-64 as common subject matter of trading.

Also of note are the facts that *Sacerdoti et al* teach the features of icon size corresponding to quantity, bar graphs etc. (Col. 7, lines 36-45) and user adjustment of icon size to reflect quantity (Summary of the Invention). These features are recited in other claims rejected over other art.

As to Claim 18, see the discussion of Claim 28 above. *Silverman* and *Sacerdoti* do not specifically disclose a third axis representing historical activity of the market. This additional limitation is read to be like the bar chart representation of stock market activity, which is old and well-known in trading markets. The presentation of such historical information would have been obvious because this would have allowed traders to gain understanding of market trends.

As to Claim 32, *Silverman* discloses the invention as claimed, including in a method of displaying trading activity of a plurality of traders (Fig. 4, elements 73, 75, 77 and 94, 96, 98), the steps of:

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Displaying a trading pit (Fig. 4, "Central station Book");

Determining for each trader an activity level (Fig. 4, Icon "Primary Quantity" level); and

Displaying for each trader a token representing the trader at a location in the trading pit.

Silverman does not specifically disclose that the trader token position indicates activity level of a trader. *Bernstein* discloses this feature at page 62, "The Pit" and Fig. 5.1. In this case, activity level is interpreted as contract month positions in the pit. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the position related activity level of *Bernstein* in the invention of *Silverman* because this would have made clear the traders' interest in improving an order. As the contract month approached, it would be more likely that exchange activity would increase in an effort to complete a matching of bid and offer.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on (703) 308-1065. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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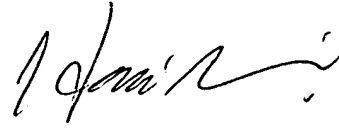
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May 5, 2003



HANI M. KAZIMI
PRIMARY EXAMINER